



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

N00236.000035  
ALAMEDA POINT  
SSIC NO. 5090.3

VIA FACSIMILE  
(619) 532-0983

March 14, 2000

Mr. Michael McClelland, Code 06CA.MM  
Engineering Field Division Southwest, BRAC Offices  
1220 Pacific Hwy.  
San Diego, CA 92132

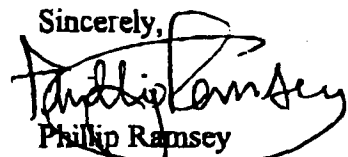
Re: Action Memorandum for Marsh Crust Time-Critical Removal Action at East Housing Area -  
BRAC Parcels 170-171, Alameda Point (former Alameda Naval Air Station), dated February  
18, 2000

Dear Mr. McClelland:

It has come to the attention of the U.S. Environmental Protection Agency (U.S. EPA) that the Department of the Navy (Navy) has issued for public comments an Action Memorandum for a time-critical removal action at former Alameda Naval Air Station, East Housing Area - BRAC Parcels 170-171 (Action Memorandum). U.S. EPA has serious concerns regarding the Navy's apparent intention to implement Institutional Controls (ICs) for Marsh Crust at East Housing Area through a time-critical removal action - Action Memorandum, including concerns that the selection of ICs in an Action Memorandum is not consistent with the purpose of removal actions and is contrary to the Navy's position that the Marsh Crust contamination does not pose an immediate threat (please see enclosure for additional U.S. EPA comments). While U.S. EPA was not provided with an official copy of the referenced Action Memorandum (nor asked to provide comments), we are providing these comments in the spirit of participation on the Alameda Naval Air Station BRAC Cleanup Team (BCT).

If you have any questions concerning this matter, please do not hesitate to contact me at (415) 744-2365.

Sincerely,

  
Phillip Ramsey  
Remedial Project Manager

Enclosure  
cc: see next page

cc: Ms. Mary Rose Cassa  
California Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, CA 94710-2721

Mr. Brad Job  
California Regional Water Quality Control Board - San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Ms. Dina Tasini  
Alameda Reuse and Redevelopment Authority  
950 West Mall Square  
Alameda, CA 94501

Ms. Mary Sutter , Community Co-Chair  
Naval Air Station Alameda Restoration Advisory Board  
2415 Roosevelt Drive  
Alameda, CA 94501

March 14, 2000

U.S. EPA Comments on the former Alameda Naval Air Station Action Memorandum for a Time-Critical Removal Action at East Housing Area-BRAC Parcels 170-171, dated February 18, 2000.

U.S. EPA has serious concerns regarding the Navy's apparent intention to implement the institutional controls for the Marsh Crust at East Housing through a time-critical removal. Our concerns are as follows.

**1. A removal action is not appropriate for the Marsh Crust Institutional Controls.**

a. Selecting the Marsh Crust ICs through a removal action is not consistent with the purpose of removals, and is contrary to the Navy's position that the Marsh Crust contamination does not pose an immediate threat.

According to DOD guidance concerning removals, "A removal action typically addresses situations that present an immediate or short-term threat to human health or to the environment, whereas a remedial action typically addresses situations that present a more long-term threat to human health or the environment." Expediting BRAC Cleanups Using CERCLA Removal Authority, Spring 1997.

Similarly, U.S. EPA has stated in recent guidance as follows: "In order for the lead agency to make a determination that a removal action is warranted, the lead agency must first make the determination, preferably in the action memorandum, that there is a release or threat of release ... which may present an imminent and substantial danger to public health or welfare." S. Luftig memo dated 2/14/00, referencing CERCLA 42 USC 104(a)(1).

Given the Navy's consistent position that the Marsh Crust contamination does not pose a current threat, it is difficult to see how the Navy could justify a removal action to address either "an immediate or short-term threat" or "an imminent and substantial danger."

Even with a non-time-critical removal, the decision maker should be able to justify that the threat to human health or the environment is "sufficiently serious that the added time needed to comply with remedial requirements (e.g. completion of a RI/FS and ROD) would be unacceptable." Luftig 2/14/00 memo footnote 6. With regard to the Marsh Crust, the Navy has not indicated why the time needed to comply with remedial requirements would be unacceptable. This would be especially difficult to do since the Marsh Crust FS has nearly been completed.

b. Selecting the ICs through a removal action is not consistent with the eight removal action considerations found at 40 CFR 300.415(b)(2).

Although the action memorandum lists the eight removal considerations found at 40 CFR 300.415(b)(2), there is no indication that most of these considerations were actually taken into account. For example, one consideration is "high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate." U.S. EPA's understanding is that the Navy's position has consistently been that the Marsh Crust contamination does not pose an immediate threat precisely because it is not "at or near the surface." Similarly, there is no indication that the Navy took into consideration "the availability of other appropriate federal or state

response mechanisms to respond to the release," especially since the remedial action process is well under way.

c. U.S. EPA considers removal actions inappropriate when the selected remedy is institutional controls. For example, U.S. EPA's recent guidance on ICs and federal facilities indicates that the selection of ICs needs to be documented in a ROD or a post-ROD document such as an RD/RA workplan (Institutional Controls and Transfer of Real Property under CERCLA 120(h)(3)(A),(B), or (C) Feb. 2000, p.5). When contamination is left in place, the public needs a full opportunity to be informed of the various options under consideration. We realize that the Marsh Crust situation is unique for many reasons, and that the remedy for the Marsh Crust has already progressed through the draft final FS stage and has been discussed extensively between the Navy and the regulatory agencies. U.S. EPA is not concerned that the Navy is choosing an inappropriate remedy. However, we do not support the vehicle being used.

## **2. A time-critical removal action is especially inappropriate.**

a. The action memorandum states that the removal action constitutes a time-critical removal as defined in OSWER Directive 9318.0-05. That directive, however, defines a time-critical removal action as an action "initiated in response to a release or threat of release that poses a risk to public health or welfare or the environment, such that cleanup or stabilization actions must be initiated within six months following approval of the action memo." (p.2, emp. in orig.) The Navy has not demonstrated that the Marsh Crust contamination is such a release or threat of release, and it is difficult to imagine how such a showing could be made, especially given the Navy's persistent statements that there is no immediate threat.

b. We are also concerned with the public perception resulting from dealing with the Marsh Crust as a time-critical removal. Labeling an action a time-critical removal indicates that there is an imminent problem which must be dealt with quickly. Both the label ("time critical") and the requirement (that action must be taken within 6 months) inform the public that there is a threat that must be dealt with immediately. That is not the case with regard to the Marsh Crust contamination. In addition, categorizing an action as a time-critical removal lessens the amount of required documentation and public scrutiny for the action. We believe this is especially inappropriate in cases such as this one in which the contamination is being left in place.

## **3. There has been insufficient communication with U.S. EPA and the other regulatory agencies.**

U.S. EPA is concerned regarding the lack of communication with U.S. EPA regarding using the removal action memorandum as the vehicle for selecting the Marsh Crust institutional controls. During the several months during which Marsh Crust issues have been discussed, our understanding was that the remedies would be analyzed in an FS and finalized in a RAP/ROD. While this process

has progressed more slowly than we had hoped, we are now at the draft final FS stage, and the Navy should be able to progress to a RAP/ROD very expeditiously.

**4. The large number of "competing" remedy selection documents could cause confusion and unnecessary expenditures.**

We are concerned that with so many "competing" decision documents being drafted -- the RAP/ROD, the Removal Action Memorandum, and the State Removal Action Workplan -- there could be significant public confusion and loss of confidence that the property is being remediated and transferred in an orderly fashion, as well as unnecessary expenditures of financial resources and review time by the Navy as well as by the regulatory agencies. DOD guidance specifies that the BEC shall work with U.S. EPA and State BCT members at closing installations to decide when to implement a removal action and to ensure that all the requirements are met, including the community relations activities. (Expediting BRAC Cleanups, cited above). This was not done with regard to the removal decision.

**5. Specific problems with the removal action memorandum:**

A specific problem we have with the Removal Action Memorandum is its statement that the primary concern with regard to the Marsh Crust is the construction worker scenario (p.1-12). This is not consistent with the statements in the draft final FS that the primary threat would be if contaminated soil were brought to the surface and disposed of without controls. This has been discussed at length among the Navy and the regulatory agencies.



TETRA TECH EM INC.

TRANSMITTAL/DELIVERABLE RECEIPT

Contract No. N62474-94-D-7609

Document Control No. TC . 0271 . 10613

TO: Mr. Richard Selby, Code 02R1  
Contracting Officer  
Naval Facilities Engineering Command  
Southwest Division  
1230 Columbia Street, Suite 1100  
San Diego, CA 92132-5190

DATE: 10/16/00  
CTO: 0271  
LOCATION: Alameda Annex, Alameda

FROM:

*Greg Swanson*  
Daniel Chow, Program Manager

DOCUMENT TITLE AND DATE:

Various Correspondence from Regulatory Agencies for inclusion into the Administrative Record  
for the Fleet and Industrial Supply Center, Oakland Alameda Facility/Alameda Annex, or  
Alameda Point, Alameda, California. Dated October 16, 2000 (These documents are forwarded  
to Ms. Diane Silva for inclusion into the Alameda Annex or Alameda Point information repository.)

TYPE: ☐ Contractual Deliverable ☐ Technical Deliverable ☒ Other

VERSION: Final REVISION #: NA  
(e.g., Draft, Draft Final, Final)

ADMIN RECORD: Yes ☒ No ☐ CATEGORY: Confidential ☐

SCHEDULED DELIVERY DATE: 10/18/00 ACTUAL DELIVERY DATE: 10/18/00

NUMBER OF COPIES SUBMITTED TO NAVY: O/7C/8E  
O = original transmittal form  
C = copy of transmittal form  
E = enclosure

COPIES TO: (Include Name, Navy Mail Code, and Number of Copies)

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<del>L. Holloway (03EN.LH)</del>		
<del>1C/1E</del> <i>TV</i>		

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## **Tetra Tech EM Inc.**

10670 White Rock Road, Suite 100 ♦ Rancho Cordova, CA 95670 ♦ (916) 852-8300 ♦ FAX (916) 852-0307  
October 16, 2000

Mr. Lou Ocampo, PE  
Remedial Project Manager  
Naval Facilities Engineering Command  
BRAC Operations, Southwest Division  
1230 Columbia Street, Suite 1100  
San Diego, California 92132-5190

**Subject: Various Correspondence from Regulatory Agencies for inclusion into the Administrative Record for the Fleet and Industrial Supply Center, Oakland Alameda Facility/Alameda Annex, or Alameda Point, Alameda, California CLEAN Contract No. N62474-94-D-7609, Contract Task Order No. 271**

Dear Mr. Ocampo:

Per your request enclosed is one copy of the following correspondence for your files:

- Draft Operable Unit (OU)-1 Remedial Investigation (RI) comments from United States Environmental Protection Agency (EPA), dated April 10, 1998.
- Draft OU-1 RI comments from Department of Toxic Substance Control (DTSC), dated April 15, 1998.
- Revised Draft OU-1 RI comments from DTSC, dated November 3, 1998.
- Revised Draft OU-1 RI comments from EPA, dated November 6, 1998.
- EPA Review of Draft Final Marsh Crust Feasibility Study for Alameda Annex and Alameda Naval Air Station dated February 7, 2000.
- DTSC comments on Draft Final Feasibility Study for the Marsh Crust and Groundwater at the Fleet and Industrial Supply Center, Oakland Alameda Facility/Alameda Annex and for the Marsh Crust and Former Subtidal Area at Alameda Point dated February 7, 2000.
- EPA comments on the Action Memorandum for Marsh Crust Time-Critical Removal Actions at East Housing Area dated March 14, 2000.
- EPA Review of Public Draft Record of Decision/Remedial Action Plan for Marsh Crust and Groundwater at Alameda Annex and Marsh Crust and Former Subtidal Area at Alameda Point dated July 19, 2000.

Six copies of each correspondence have been forwarded to Ms. Dianne Silva for inclusion into the administrative record files at Alameda Facility/Alameda Annex or Alameda Point.

If you have any questions, please call me at (916) 853-4512.

Sincerely,

Mark R. Reisig  
Project Manager

Enclosure

cc: Ms. Diane Silva, Navy Information Repository (3 copies of each)  
File

TC 0271.10613



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